

Arturo E. Matthews, Jr. (SBN #145232)  
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Attorneys for Movant ONEWEST BANK, FSB F/K/A INDYMAC BANK

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

In re:	)	Case No. 10-44437-LJT
OSWALDO P CRUZ,	)	
Debtor(s).	)	DC No. BM-1
_____	)	CHAPTER 13
ONEWEST BANK, FSB F/K/A INDYMAC BANK,	)	<b>OBJECTION TO CONFIRMATION OF</b>
Movant,	)	<b>DEBTOR'S CHAPTER 13 PLAN;</b>
v.	)	<b>DECLARATION OF ARTURO E.</b>
	)	<b>MATTHEWS, JR. IN SUPPORT</b>
OSWALDO P CRUZ, Debtor(s); MARTHA G.	)	<b>THEREOF</b>
BRONITSKY, Chapter 13 Trustee;	)	
Respondents.	)	<u>341(a) Meeting of Creditors:</u>
	)	Date: June 24, 2010
	)	Time: 3:00 p.m.
	)	Place: 1301 Clay St.
	)	Oakland, CA 94612
	)	Room: 680N
	)	
	)	<u>Confirmation Hearing:</u>
	)	NOT YET SCHEDULED
_____	)	

**TO THE HONORABLE LESLIE J. TCHAIKOVSKY, UNITED STATES BANKRUPTCY  
JUDGE; THE DEBTOR, DEBTOR'S COUNSEL, THE CHAPTER 13 TRUSTEE, AND ALL  
INTERESTED PARTIES:**

Secured Creditor OneWest Bank, FSB f/k/a Indymac Bank ("Movant") hereby  
objects to confirmation of the Debtor's Chapter 13 Plan and in connection therewith requests that  
confirmation of the Plan be denied or the case dismissed on the grounds set forth herein.

1 Promissory Note ("Note") in favor of Movant in the original principal sum of \$359,920.00. The  
2 Note is secured by a Deed of Trust over real property owned by the Debtor and located at 7716 W  
3 Mesa Verde Lane, Las Vegas, NV 89113.

4 2. As of the date this bankruptcy case was filed, the Debtor owed pre-petition  
5 arrears to Movant in the sum of \$31,303.72 as set forth in the Proof of Claim filed by Movant. A  
6 true and correct copy of the Proof of Claim is attached to the Declaration of Arturo E. Matthews, Jr.  
7 as Exhibit "A" and incorporated herein by reference.

8 3. Debtor's proposed Chapter 13 Plan does not provide for payment of any of  
9 Movant's pre-petition arrears, nor does the Plan even list Movant as a secured creditor.

10 4. Movant respectfully submits that confirmation of the Debtor's Plan should be  
11 denied unless the Debtor adequately provides for payment of Movant's pre-petition arrears.

12  
13  
14 Dated: May 21, 2010

BURNETT & MATTHEWS LLP

15  
16 By: /s/ Arturo E. Matthews, Jr.  
17 Arturo E. Matthews, Jr.,  
18 Attorneys for Secured Creditor  
ONEWEST BANK, FSB F/K/A INDYMAC  
BANK

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I, Arturo E. Matthews, Jr., declare and say as follows:

1. I am an attorney at law duly licensed to practice before this Court and am a partner with the law firm of Burnett & Matthews LLP, attorneys for Secured Creditor OneWest Bank, FSB in the within proceeding. I make this Declaration based upon the following facts, all of which are within my personal knowledge. If called as a witness I could and would competently testify thereto.

2. Attached hereto as Exhibit "A" and incorporated herein by this reference is a true and correct copy of the Proof of Claim filed by Movant in the instant bankruptcy case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21<sup>st</sup> day of May 2010, at Newport Beach, California.

/s/Arturo E. Matthews, Jr.  
ARTURO E. MATTHEWS, JR.